

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition Nos.3237 and 3904 of 2016

COMMON ORDER:

CRP Nos.3237 and 3904 of 2016 are filed by the petitioners/defendants 3 to 6 aggrieved by the order dated 26.02.2016 in I.A.Nos.25 and 26 of 2016 respectively in O.S.No.5 of 2009 on the file of Junior Civil Judge, Kamalapuram, whereby the trial Court dismissed the aforesaid petitions filed by the petitioners/defendants 3 to 6 to re-open the suit for cross-examination of PWs.1 and 2 and to set aside the *ex parte* order dated 02.07.2012.

2) Heard arguments of Sri Venkat Reddy Kodumury, learned counsel for petitioners and Sri Srinivas Emani, learned counsel for respondents.

3) As can be seen from the impugned orders, the plaintiff filed the suit against defendants 1 and 2 for declaration of her right and title and for permanent injunction. Pending trial, 2nd defendant died and hence the petitioners/defendants 3 to 6 were brought on record as his LRs vide orders in I.A.No.30 of 2012 dated 26.03.2012. They engaged a counsel and the trial Court gave them opportunity to file written statement but they did not file the written statement inspite of time being given to them and hence they were set *ex-parte* on 02.07.2012. Thereafter the trial was proceeded with and arguments were addressed on behalf of plaintiff and matter was reserved for judgment on 22.01.2016. At that stage, it appears, the petitioners/defendants 3 to 6 filed the petition on 01.12.2016 to set aside the *ex-parte* order submitting that due to death of their relative, they

could not attend the Court to file the statement on 02.07.2012. The trial Court observing that the petitioners filed the petition to set aside the *ex parte* order with a delay of almost 3 ½ years and no steps were taken by them to file the petition at the earliest, dismissed the petitions.

4) It may be a fact that the petitioners/defendants 3 to 6 did not attend the Court on 02.07.2012 due to the death of their relative. However they did not show any inclination to know the further proceedings in the Court to take steps to file a petition to set aside the *ex-parte* order passed against them. Their approach was too lackadaisical. In the meanwhile the Court proceeded with trial and after hearing arguments, reserved the suit for judgment on 22.01.2016. Though the Courts generally shall not dispose of the matters *ex-parte*, as valuable rights of the parties will be at stake, but at the same time the Courts shall not encourage the parties who slumber for years together over their rights. This is a classic example of how the petitioners/defendants 3 to 6 remained silent for years together and then approached the Court at the fag-end of the matter to restart the proceedings for them. Such an attitude needs to be deprecated.

5) In the result, I find no merits in these CRPs and accordingly, they are dismissed. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 11.07.2017
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